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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

RAY PINEDA,

Petitioner,

v.

BRIAN WILLIAMS, et al.,

Respondents.

Case No. 3:16-cv-00187-RCJ-WGC

ORDER

This *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 filed by Nevada state prisoner Ray Pineda is before the court on petitioner's declaration in response to this court's order granting respondents' motion to dismiss in part (ECF No. 23).

On August 22, 2017, this court concluded that several grounds in the petition were unexhausted (ECF No. 23). On May 23, 2018, the court denied Pineda's motion for a stay and abeyance (ECF No. 29, *see also* ECF No. 30). The court then directed Pineda to either: (1) inform this court in a sworn declaration that he wished to formally and forever abandon the unexhausted grounds for relief in his federal habeas petition and proceed on the exhausted grounds; or (2) inform this court in a sworn declaration that he wished to dismiss this petition without prejudice in order to return to state court to exhaust his unexhausted claims (ECF Nos. 29, 32).

In response, Pineda has filed a declaration in which he states that he wishes to dismiss this petition without prejudice in order to return to state court to exhaust his

1 unexhausted claims (ECF No. 33). Thus, in accordance with petitioner's declaration,  
2 this petition is dismissed without prejudice.

3 **IT IS THEREFORE ORDERED** that the petition is **DISMISSED** without prejudice  
4 as set forth in this order.

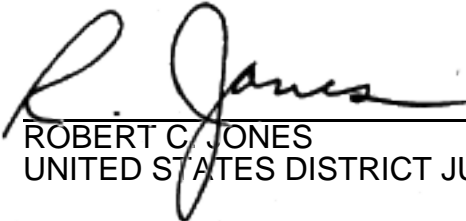
5 **IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**.

6 **IT IS FURTHER ORDERED** that petitioner's request for an updated docket sheet  
7 (ECF No. 34) is **GRANTED**. The Clerk SHALL SEND to petitioner one copy of the  
8 docket sheet.

9 **IT IS FURTHER ORDERED** that respondents' motion to dismiss (ECF No. 35) is  
10 **DENIED** as moot.

11 **IT IS FURTHER ORDERED** that the Clerk shall **ENTER JUDGMENT** and close  
12 this case.

13 DATED: This 6<sup>th</sup> day of November, 2018.

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15 ROBERT C. JONES  
16 UNITED STATES DISTRICT JUDGE  
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